



# UNITED STATES PATENT AND TRADEMARK OFFICE

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/666,071      | 09/19/2003  | Benjamin Wong        | ALI-3               | 7667             |

20311 7590 03/08/2005

MUSERLIAN, LUCAS AND MERCANTI, LLP  
475 PARK AVENUE SOUTH  
15TH FLOOR  
NEW YORK, NY 10016

EXAMINER

HYLTON, ROBIN ANNETTE

ART UNIT PAPER NUMBER

3727

DATE MAILED: 03/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

|                          |                               |                                |  |
|--------------------------|-------------------------------|--------------------------------|--|
| <b>Interview Summary</b> | Application No.<br>10/666,071 | Applicant(s)<br>WONG, BENJAMIN |  |
|                          | Examiner<br>Robin A. Hylton   | Art Unit<br>3727               |  |

All participants (applicant, applicant's representative, PTO personnel):

(1) Robin A. Hylton.

(3) \_\_\_\_\_.

(2) Donald Lucas.

(4) \_\_\_\_\_.

Date of Interview: 31 January 2005.

Type: a) ☒ Telephonic b) ☐ Video Conference  
c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.

If Yes, brief description: \_\_\_\_\_.

Claim(s) discussed: n/a.

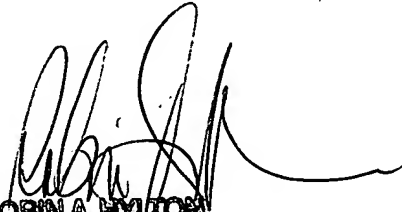
Identification of prior art discussed: n/a.

Agreement with respect to the claims f) ☐ was reached. g) ☐ was not reached. h) ☒ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Mr. Lucas called regarding the Office action mailed Sept. 30, 2004. The Office action was returned to the USPTO Oct. 8, 2004. Applicant subsequently filed a change of address with the USPTO on Nov. 11, 2004. A copy of the Sept. 30, 2004 Office action has been faxed to Mr. Lucas on January 31, 2005. The time for response continues to run from the mailing date of the Office action.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

  
**ROBINA HYLTON**  
**PRIMARY EXAMINER**

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

\_\_\_\_\_  
Examiner's signature, if required

## Summary of Record of Interview Requirements

### Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

### Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews

#### Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

#### 37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiner's Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,  
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

### Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.



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# Fax Cover Sheet

**Date:** 31 Jan 2005

|   |                                       |
|---|---------------------------------------|
| <b>To:</b> Donald Lucas                       | <b>From:</b> Robin A. Hytton          |
| <b>Application/Control Number:</b> 10/666,071 | <b>Art Unit:</b> 3727                 |
| <b>Fax No.:</b> (212) 661-8002                | <b>Phone No.:</b> 571/272-4540        |
| <b>Voice No.:</b> 212 661-8000                | <b>Return Fax No.:</b> (703) 872-9306 |
| <b>Re:</b>                                    | <b>CC:</b>                            |

☐ **Urgent**    ☐ **For Review**    ☐ **For Comment**    ☐ **For Reply**    ☒ **Per Your Request**

**Comments:**

Office action mailed Sept. 30, 2004 per your request.

**Number of pages** 7 **including this page**

**STATEMENT OF CONFIDENTIALITY**

This facsimile transmission is an Official U.S. Government document which may contain information which is privileged and confidential. It is intended only for use of the recipient named above. If you are not the intended recipient, any dissemination, distribution or copying of this document is strictly prohibited. If this document is received in error, you are requested to immediately notify the sender at the above indicated telephone number and return the entire document in an envelope addressed to:

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\*\*\*\*\*  
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 CONNECTION TEL 912126618002  
 SUBADDRESS  
 CONNECTION ID  
 ST. TIME 01/31 14:20  
 USAGE T 02'25  
 PGS. 7  
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# Fax Cover Sheet

Date: 31 Jan 2005

|  |                                |
|--|--------------------------------|
| To: Donald Lucas   | From: Robin A. Hyton           |
| Application/Control Number: 10/666,071   | Art Unit: 3727                 |
| Fax No.: (212) 661-8002  | Phone No.: 571/272-4540        |
| Voice No.: 212 661-8000  | Return Fax No.: (703) 872-9308 |
| Re:  | CC:                            |
| <input type="checkbox"/> Urgent <input type="checkbox"/> For Review <input type="checkbox"/> For Comment <input type="checkbox"/> For Reply <input checked="" type="checkbox"/> Per Your Request |                                |

Comments:

Office action mailed Sept. 30, 2004 per your request.



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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.               | CONFIRMATION NO. |
|---|-------------|----------------------|-----------------------------------|------------------|
| 10/666,071  | 09/19/2003  | Benjamin Wong        | ALI-3                             | 7667             |
| 7590 09/30/2004   |             |                      |                                   |                  |
| Muserlian, Lucas and Mercanti LLP<br>600 Third Avenue<br>New York, NY 10016 |             |                      | EXAMINER<br>HYLTON, ROBIN ANNETTE |                  |
|   |             |                      | ART UNIT                          | PAPER NUMBER     |
|   |             |                      | 3727                              |                  |

DATE MAILED: 09/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/666,071

Applicant(s)

WONG, BENJAMIN

Examiner

Robin A. Hylton

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 9-19-03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Borst (US 4,602,719).

Disclosed is a plastic (food) container 10 with a pop-open lid, comprising a container body 15 having a lower tab 23 protruding outward from the body; a removable and reclosable lid 12 adapted to fit over and seal the top of the body in a closed position, the lid having an upper tab 24 protruding outward from the lid, aligning with the lower tab in the closed position; the lower and upper tabs including protrusions 30, 29, respectively, facing each other and arranged to contact each other in the closed position; whereby, when outside edges of the upper and lower tabs are squeezed together by fingers of a user, the upper tab lifts the lid away from the body so as to open the container.

***Conclusion***

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Various prior art closures teaching features similar to those disclosed and/or claimed are cited for their disclosures.
4. In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses to Office Actions directly into the Group at (703) 872-9306. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into Group 3720 will be promptly forwarded to the examiner.
5. It is called to applicant's attention that if a communication is faxed before the reply time has expired, applicant may submit the reply with a "Certificate of Facsimile" which merely asserts that the



Art Unit: 3727

reply is being faxed on a given date. So faxed, before the period for reply has expired, the reply may be considered timely. A suggested format for a certificate follows:

I hereby certify that this correspondence for Application Serial No. \_\_\_\_\_ is being facsimiled to The U.S. Patent and Trademark Office via fax number (703) 872-9306 on the date shown below.

Typed or printed name of person signing this certificate  
\_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

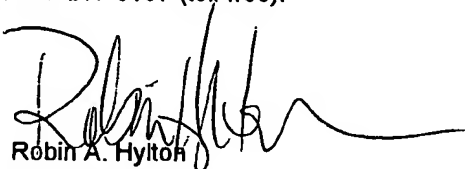
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robin Hylton whose telephone number is (703) 308-1208. The examiner works a part-time schedule and can normally be reached on Monday - Friday from 9:00 a.m. to 1:00 p.m. (Eastern time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee Young, can be reached on (703) 308-2572.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Errica Miller at (703) 306-4005.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1148 or may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RAH  
September 25, 2004

  
Robin A. Hylton  
Primary Examiner  
GAU 3727

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

Substitute for form 1449/PTO

## INFORMATION DISCLOSURE STATEMENT BY APPLICANT

(Use as many sheets as necessary)

|       |   |    |   |
|-------|---|----|---|
| Sheet | 1 | of | 1 |
|-------|---|----|---|

**Complete if Known**

|                        |               |
|------------------------|---------------|
| Application Number     | 10/666,071    |
| Filing Date            |               |
| First Named Inventor   | Benjamin Wong |
| Art Unit               |               |
| Examiner Name          |               |
| Attorney Docket Number | ALI-3         |

## U. S. PATENT DOCUMENTS

[illegible]

## FOREIGN PATENT DOCUMENTS

[illegible]

|                       |                    |                    |         |
|-----------------------|--------------------|--------------------|---------|
| Examiner<br>Signature | <i>[Signature]</i> | Date<br>Considered | 9/25/04 |
|-----------------------|--------------------|--------------------|---------|

\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. Applicant's unique citation designation number (optional). \*See Kinds Codes of USPTO Patent Documents at [www.uspto.gov](http://www.uspto.gov) or MPEP 901.04. \*Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). \*For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. \*Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. \*Applicant is to place a check mark here if English language translation is attached.

This collection of information is required by 37 CFR 1.97 and 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

**If you need assistance in completing the form, call 1-800-PTO-9199 (1-800-786-9199) and select option 2.**

copy

|                                   |                                       |  |             |
|-----------------------------------|---------------------------------------|--|-------------|
| <b>Notice of References Cited</b> | Application/Control No.<br>10/666,071 | Applicant(s)/Patent Under<br>Reexamination<br>WONG, BENJAMIN |             |
|                                   | Examiner<br>Robin A. Hylton           | Art Unit<br>3727   | Page 1 of 1 |

**U.S. PATENT DOCUMENTS**

| * |   | Document Number<br>Country Code-Number-Kind Code | Date<br>MM-YYYY | Name               | Classification |
|---|---|--|-----------------|--------------------|----------------|
|   | A | US-5,602,719                                     | 02-1997         | Kinion, Michael    | 361/704        |
|   | B | US-5,082,134                                     | 01-1992         | Ramsey, Douglas P. | 220/711        |
|   | C | US-Des 403,507                                   | 01-1999         | Asposito           | D3/294         |
|   | D | US-  |                 |                    |                |
|   | E | US-  |                 |                    |                |
|   | F | US-  |                 |                    |                |
|   | G | US-  |                 |                    |                |
|   | H | US-  |                 |                    |                |
|   | I | US-  |                 |                    |                |
|   | J | US-  |                 |                    |                |
|   | K | US-  |                 |                    |                |
|   | L | US-  |                 |                    |                |
|   | M | US-  |                 |                    |                |

**FOREIGN PATENT DOCUMENTS**

| * |   | Document Number<br>Country Code-Number-Kind Code | Date<br>MM-YYYY | Country | Name | Classification |
|---|---|--|-----------------|---------|------|----------------|
|   | N |  |                 |         |      |                |
|   | O |  |                 |         |      |                |
|   | P |  |                 |         |      |                |
|   | Q |  |                 |         |      |                |
|   | R |  |                 |         |      |                |
|   | S |  |                 |         |      |                |
|   | T |  |                 |         |      |                |

**NON-PATENT DOCUMENTS**

| * |   | Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages) |
|---|---|---|
|   | U |   |
|   | V |   |
|   | W |   |
|   | X |   |

\*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)  
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.